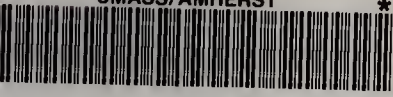


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# Massachusetts Department of Public Welfare

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*Fair Information Practices*  
*106 CMR 100-108*

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CHAPTERS

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100.010: Authority

These regulations in Chapters 100 through 108 are promulgated pursuant to G.L. c. 66A, § 3, as appearing in St. 1975, c. 776 and amended by St. 1977, c. 691, and pursuant to G.L. c. 18 § 10.

100.020: Scope

These regulations in Chapters 100 through 108 shall govern the collection, maintenance and disclosure of personal data contained in manual or computerized personal data systems. These regulations shall not apply to criminal offender record information, intelligence information or evaluative information, as defined in G.L. c. 6, § 167.

100.030: Application

These regulations in Chapters 100 through 108 shall apply to all personal data systems maintained by the Department of Public Welfare and all holders as defined in § 101.040 which contract with the Department of Public Welfare.

100.040: Department of Public Welfare Instructions

The Department of Public Welfare shall issue instructions consistent with these regulations and with G.L. c. 66A to carry out the purposes set out herein. Such instructions shall include, but need not be limited to the following:

- (A) procedures for obtaining consent from a data subject to the granting of access to personal data concerning him;
- (B) general authorizations for the Department of Public Welfare to grant access to personal data or, with the consent of the disclosing agency, to receive personal data, without the consent of the data subject, to the extent permitted by G.L. c. 66A, § 2 (c);
- (C) procedures for maintaining the audit trail required by section 103.060;
- (D) procedures governing access to personal data by data subjects, which:
  - (1) ensure that any substitute or proxy for the individual data subject be duly authorized by him;
  - (2) regulate the time and place for inspection and the manner of copying; provided that the time for inspection shall not be unduly restricted;





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- (3) require that data files be reviewed in the presence of or under the supervision of an employee of the Department of Public Welfare; and
  - (4) ensure proper identification of a person claiming to be a data subject.
- (E) Procedures governing response to compulsory legal process, as required by 106 CMR 104.050;
- (F) Interpretation of statutes affecting the Department of Public Welfare which prohibit, regulate or permit access to personal data; and
- (G) Procedures for obtaining informed consent to the collection of personal data, where such collection is not mandated by law.

100.050: Policy on Fees

Where applicable, fees for copying records shall be charged in accordance with the schedule set forth in 106 CMR 100.060. Fees may only be charged where an individual requests that a copy be made of the record to which he or she is granted access.

100.060: Fee Schedule

- (A) Except as provided in paragraph (D), the Department of Public Welfare shall charge a fee of 10 cents per page for photocopying records susceptible to photocopying.
- (B) Except as provided in paragraph (D), the Department of Public Welfare shall charge a fee substantially equivalent to the actual cost of reproduction as determined by the responsible Department of Public Welfare employee for copying records not susceptible to photocopying (e.g., punch cards or magnetic tapes). Where a copy of the record must be made in order to provide access to the record (e.g., computer printout where no screen reading is available), the copy shall be made available to the individual without cost.
- (C) A fee reasonably related to cost may be charged for making a search of a system of records, provided that such fee is consistent with 950 CMR 32.06 of the Freedom of Information Regulations promulgated by the Supervisor of Public Records (effective January 6, 1978).
- (D) No charge will be made if the total fee specified in 106 CMR 100.060 would not exceed two dollars.



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100.070: Payment of Fees

Any fee due under section 100.060 shall be paid in advance of the receipt of copies of personal data by check or money order made payable to the Commonwealth of Massachusetts and delivered to the responsible Department of Public Welfare employee, but payment in cash, for which a receipt shall be given, shall be accepted where the total charge is five dollars (\$5) or less.



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101.010: Meaning of Terms

As used in Chapters 100 through 108 unless the context otherwise requires, the following terms shall have the following meanings.

101.020: Department of Public Welfare

Hereafter, the Department of Public Welfare will be referred to only as "department".

101.030: Data Subject

"Data subject" means an individual to whom personal data refers.

101.040: Holder

"Holder", an agency which collects, uses, maintains or disseminates personal data or any person or entity which contracts or has an arrangement with an agency whereby it holds personal data as part of or as a result of performing a governmental or public function or purpose. A holder which is not an agency is a holder only with respect to personal data so held under contract or arrangement with an agency.

101.050: Holds

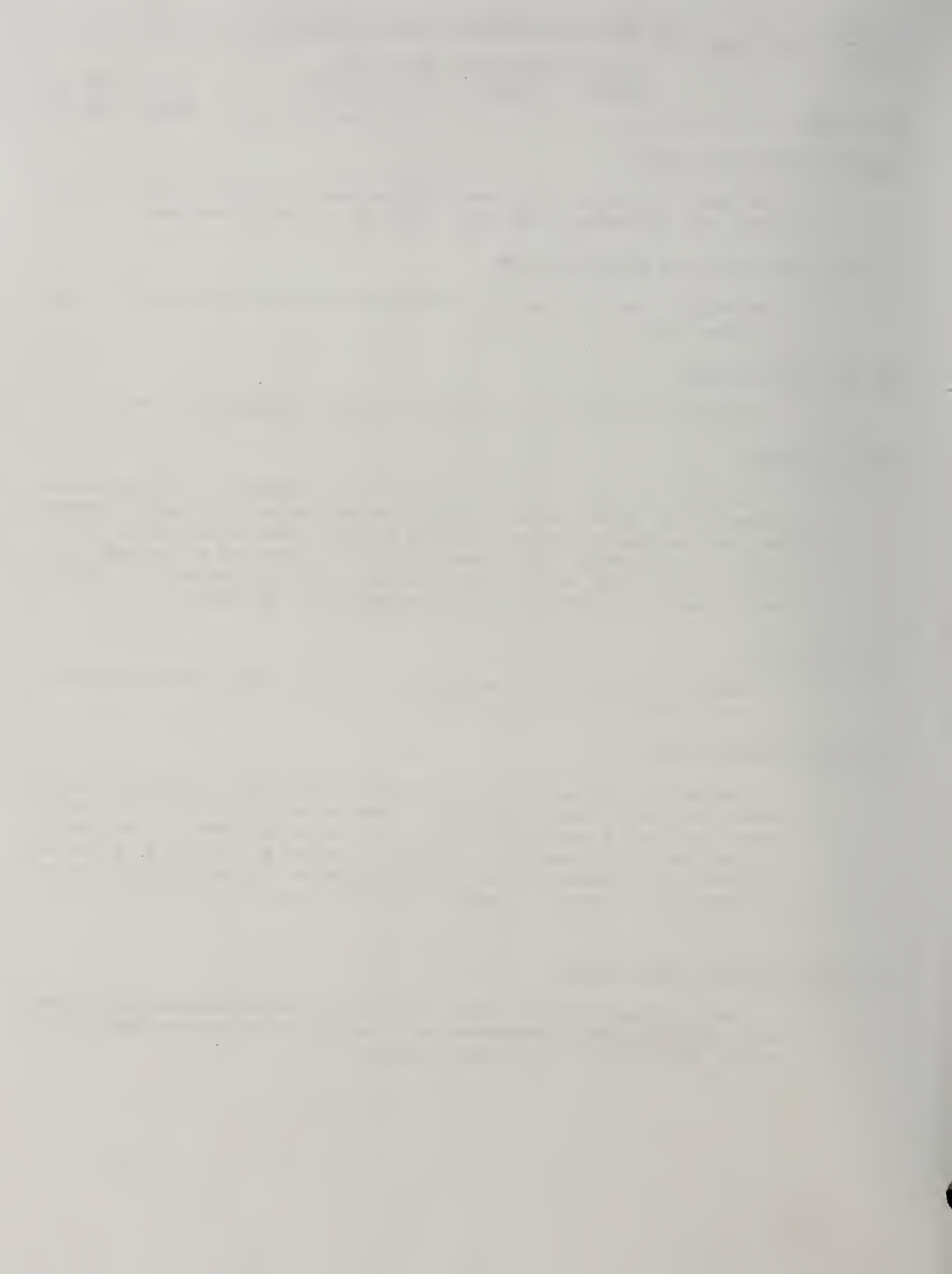
"Holds" means collects, maintains, or disseminates, whether manually, or electronically.

101.060: Personal Data

"Personal data" means any information concerning an individual which, because of name, identifying number, mark or description can be readily associated with a particular individual; provided, however, that such information is not contained in a public record as defined in § 101.090. "Personal data" shall not include intelligence information, evaluative information or criminal offender record information as defined in G.L. c. 6, § 167.

101.070: Personal Data System

"Personal data system" means a system of records containing personal data, which system is organized such that the data are retrievable by use of the identity of the data subject.





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"Personal identifier" means any element of data which may be used to fix a person's identity either by itself or when combined with other data accessible to the holder of such data and which may include, but is not necessarily limited to: name, address, social security number, date of birth, race, zip code, mother's given name, mother's maiden name, or any part of the mother's given or maiden name.

101.090: Public Records

"Public records" means all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the Commonwealth or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

- (A) specifically or by necessary implication exempted from disclosure by statute;
- (B) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (C) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (D) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subparagraph shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (E) notebooks and other materials prepared by an employee of the Commonwealth which are personal to him and not maintained as part of the files of the governmental units;
- (F) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;



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(G) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subparagraph shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;

(H) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with, or to award a contract to, a particular person.

(I) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired.



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102.010: Officer Designation

The department shall designate, for each personal data system it maintains, a person to serve as the responsible person under G.L. c. 66A, § 2(a). A single employee may serve as the responsible person for more than one such system.

102.020: Duties and Responsibilities

The officer described in section 102.010 shall, with respect to the system or systems for which he is immediately responsible:

- (A) ensure that the requirements of G.L. c. 66A and of these regulations for preventing unauthorized access to personal data are followed;
- (B) receive complaints and objections; and
- (C) answer questions.





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(A) The department shall not permit any person or entity to hold personal data as part of or as a result of performing, on behalf of such agency, a governmental or public function or purpose, unless:

(1) the department has informed such person or entity that it is a holder of personal data, as defined by section 101.040, and subject to the provisions of G.L. c. 66A, § 2; and

(2) such person or entity has agreed to conform to the obligations of the department set out in Chapters 103, 105, 106, sections 104.010 through 104.050 of Chapter 104 and sections 107.030 through 107.050 of Chapter 107 of these regulations.

(B) Any contract or agreement between the department and a person or entity under which such person or entity will hold personal data as part of or as a result of performing a governmental or public function or purpose shall, by its terms, obligate such person or entity to conform to the obligations of the department set out in Chapters 103, 105, 106, sections 104.010 through 104.050 of Chapter 104 and sections 107.030 through 107.050 of Chapter 107 of these regulations and shall provide further that failure to so conform to such obligations shall be grounds for terminating such contract or agreement.

(C) The department may, without the consent of the data subject, have access to personal data held pursuant to its contract or agreement with a person or entity under which such person or entity will hold personal data as part of or as a result of performing a governmental or public function or purpose; provided, that such contract or agreement shall provide for such access on behalf of the Department.

103.020: Personnel Training

The department shall periodically inform all of its employees who have responsibilities or functions for the design, development, operation, or maintenance of a personal data system or the use of personal data therein, of the provisions of these regulations and of the civil remedies described in G.L. c. 214, § 3B, available to individuals whose rights under G.L. c. 66A are allegedly violated, and shall use its best efforts to assure that such employees understand and comply with these regulations.

103.030: Physical Security

The department shall take all reasonable steps for the protection of data from physical damage or unauthorized removal, including procedures, where feasible and appropriate, providing for:

(A) adequate fire detection and extinguishing systems;



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- (B) protection against water and smoke damage;
- (C) water tight facilities;
- (D) alarm systems, safes and locked files, window bars, security guards or any other devices reasonably expected to prevent loss through larceny or other means of unauthorized removal for manually held data, including files, tapes, cards and like materials; and
- (E) passwords, keys, badges, access logs, or other methods reasonably expected to prevent loss through larceny or other means of unauthorized removal for mechanically or electronically held data.

103.040: Duplicate Files

- (A) The department shall ensure that the number of duplicate files of personal data is maintained at an absolute minimum.
- (B) The department shall ensure that all duplicate file systems are maintained consistent with the requirements of these regulations.

103.050: Notice and Annual Report to the Secretary of State

The department shall, by September 1, 1976 and annually thereafter, and upon the subsequent establishment, termination, or change in character of a personal data system, file a report with the Secretary of State regarding each personal data system it operates. Such report shall be maintained by the department as a public record. Such report shall include, but not necessarily be limited to the following information:

- (A) the name of the system and the title and address of the person in charge of it;
- (B) the nature and purpose of the system;
- (C) the identification of the types, categories, uses and sources of data held in the system;
- (D) the approximate number of individuals about whom data is held in the system;
- (E) whether and to what extent the data is held in computerized form;
- (F) a description of each person and organization having access to the system;
- (G) a description of the policies and practices of the agency with regard to data maintenance, retention, and disposal;



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(H) a description of the manner in which any individual who believes that data about him is held in the system, may have a search made and, if such data is so held, may inspect, copy, and object to it as provided in these regulations; and

(I) a description of other actions taken to comply with these regulations and Massachusetts Law, particularly G.L. c. 66A.

103.060: Audit Trail

The department shall maintain, as an audit trail, records which show any access to or use of personal data which the department holds by persons or organizations outside of the department. The department need not record in the audit trail any such access or use by its employees acting within their official duties. In the case of personal data systems in which personal data is stored, in whole or in part, in a computer or in electronically controlled or accessible files, the audit trail shall include a complete and accurate record of every disclosure of personal data, including the identity of all persons and organizations to whom such access or use has been granted and their declared intentions regarding the use of such personal data. The data subject need not declare her/his intentions regarding the use of such personal data. In the case of all other personal data systems, the audit trail shall include such information to the maximum extent feasible. The audit trail shall be deemed part of the data to which it relates for all purposes under these regulations.

103.070: Limitation on Collection of Personal Data

The department shall collect and maintain only those personal data which are reasonably necessary for the performance of its statutory functions.

103.080: Destruction of Obsolete Personal Data

Pursuant to G.L. c. 30, § 42, the department shall develop and implement, with the approval of the Records Conservation Board, a plan for the destruction of obsolete data. As part of such implementation, each agency shall periodically review all personal data systems for the purpose of destroying obsolete personal data.





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104.010: Regulation of Access to Personal Data

Except as provided in section 104.020, the department shall not permit access to personal data to any person other than an employee of the department or the data subject unless such access is authorized by state or federal statute or regulation consistent with the purposes of these regulations or is approved by the data subject whose personal data is sought.

104.020: Accuracy of Released Personal Data

Where access to personal data is authorized pursuant to this Chapter, with or without the approval of the data subject, the department shall release such data in the most accurate form possible. If the department has reason to believe that personal data may be inaccurate, it shall either verify such data prior to release or state at the time of such release that the data may be inaccurate.

104.030: Exception for Medical or Psychiatric Emergencies

Where release of personal data is not generally authorized by statute or regulation, medical or psychiatric data may be made available to a physician treating a data subject, upon the request of said physician, if a medical or psychiatric emergency arises which precludes the data subject giving approval for the release of such data; provided, however, that the department shall give notice of the fact of such release to the data subject upon termination of the emergency.

104.040: Approval by Data Subject

The approval of a data subject prior to granting access as required by section 104.010 may be granted in writing or orally, including by telephone; provided, that the department shall make reasonable efforts to verify the identity of the data subject; and, provided further, that the department shall, if no written consent is given, make a notation of an oral approval and shall file such notation with the personal data held.

104.050: Response to Compulsory Legal Process

The department shall, as required by G.L. c. 66A, § 2(k), maintain procedures to ensure that no personal data are made available from its personal data systems in response to a demand for data made by means of compulsory legal process unless the data subject has been notified of such demand in reasonable time that he may seek to have the process quashed. To fulfill this requirement, the procedures of the department shall include:



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(A) an explanation to department personnel of the service of subpoenas under Rule 45 of the Rules of Civil Procedure (for civil litigation in state and federal courts), G.L. c. 233, §§ 1-6 (for criminal litigation in state courts,) Rule 17 of the Rules of Criminal Procedure for the United States District Courts (for criminal litigation in the federal courts) and G.L. c. 30A § 12 (for adjudicatory proceedings before state agencies);

(B) a requirement that service of a subpoena which names a department officer or employee will be accepted on behalf of said officer or employee by any other individual only if such acceptance occurs at least three business days prior to and not including the day on which the attendance of said officer or employee is demanded;

(C) instructions to attempt in all cases to negotiate with the person causing the subpoena to be served with a view to avoiding the appearance or, if an appearance is necessary, narrowing the scope of the subpoena to those matters truly required; and

(D) a requirement that the data subject be notified no later than the next business day following the day on which the subpoena is served.

104.060: Scope of Sections 104.060 through 104.110

Neither G.L. c. 66A nor these regulations alter the requirements of the Freedom of Information Act, G.L. c. 66, § 10, that agencies must grant access by members of the public to all public records. An agency's determination of whether or not to release a record often hinges on whether or not that record is a public record.

Among the exemptions listed in the definition of "public record" is one for records the disclosure of which may constitute an unwarranted invasion of personal privacy. The rules and examples set out in this Chapter are intended to aid agencies in identifying such invasions as part of the process of identifying public records.

104.070: Access to Public Records

Pursuant to G.L. c. 66, § 10, an agency must grant access upon request, without the consent of the data subject, to any personal data which is a public record as defined in section 101.090. Each agency must establish a procedure for resolving questions within such agency regarding the identification of public records. Such procedure must be consistent with AB 74-17, Regulations on Freedom of Information, promulgated by the Commissioner of Administration pursuant to G.L. c. 7, §§ 3 and 4.



104.080: Unwarranted Invasion of Personal Privacy: General Rule

If the disclosure of personal data may constitute an unwarranted invasion of personal privacy, the personal data is not a public record. In general, disclosure of personal data may constitute an unwarranted invasion of privacy when:

- (A) the personal data is not of common knowledge, not of public record, and not in public view;
- (B) disclosure will more likely than not be embarrassing or offensive to the data subject; and
- (C) there is no legitimate public interest in disclosure sufficient to outweigh the potentially embarrassing or offensive nature of the disclosure.

104.090: Unwarranted Invasion of Personal Privacy: Examples

In implementing section 104.080, the department shall consider the examples in the remainder of this Chapter.

104.100: Disclosures Not Constituting an Unwarranted Invasion

Disclosure to the public of personal data in the following situations is not normally an unwarranted invasion of privacy:

- (A) Disclosure of an unverified, citizen's complaint concerning the professional conduct of a health professional.
- (B) Disclosure of a license survey report which includes evaluative materials concerning the professional conduct of a health professional.

Explanation: Clauses (A) and (B) of section 104.080 may be satisfied in examples (A) and (B) above. However, the public has a legitimate interest in learning of improper professional conduct which may affect the quality of health care provided to the public, and this public interest in disclosure will normally outweigh the potentially embarrassing nature of the disclosure. In order to disclose the personal data in the most accurate form possible, the agency should accompany the disclosure of an unverified complaint with an explanation that the complaint is unverified and, if an investigation is planned or in progress, the date by which such investigations will be completed.

- (C) Disclosure of an intra-agency memorandum which concludes that an agency employee has performed his administrative duties improperly, and such administrative duties affect the quality of services to the public.





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Explanation: Clauses (A) and (B) of section 104.080 may be satisfied. However, the public's legitimate interest in information relating to the quality of services of a public agency will normally outweigh the potentially embarrassing nature of the disclosure. An employment relationship between an employee and the agency will not normally preclude the agency from disclosure of this information.

(D) Disclosure of embarrassing information contained in an affidavit filed in court in connection with a law suit.

(E) Disclosure of embarrassing information which has recently been published in a local newspaper of general circulation.

Explanation: Clause (A) of section 104.080 is not satisfied in examples (D) and (E) because the information in example (D) is a public record and the information in example (E) is common knowledge.

104.110: Disclosure Constituting an Unwarranted Invasion

Disclosure to the public of personal data in the following situations is normally an unwarranted invasion of personal privacy:

(A) Disclosure of information from the records of a client.

Explanation: Clauses (A), (B) and (C) of section 104.080 are normally satisfied. Any legitimate public interest can be served by aggregating data in statistical form.

(B) Disclosure of the resume of or evaluative materials on an applicant for employment by the Department.

Explanation: Clauses (A), (B) and (C) of section 104.080 are normally satisfied with regard to such information if disclosure is potentially embarrassing or offensive. However, in some situations, for example, where the applicant seeks a particularly high-level position and the information is relevant to the applicant's ability to carry out the responsibilities of this position, the legitimate public interest in disclosure may outweigh the embarrassing nature of the disclosure, in which case disclosure may not constitute an unwarranted invasion of privacy.

(C) Disclosure of embarrassing information concerning the personal life of an employee where such information is marginally related to the ability of the employee to carry out the responsibilities of his position.

Explanation: Normally, clauses (A), (B) and (C) of section 104.080 are satisfied. In this example the public's legitimate interest in disclosure does not outweigh the embarrassing nature of the disclosure.



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104.120: Disclosure to Investigative Agents of the Attorney General or the State  
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The Department may give access to personal data it holds to authorized investigative agents of the Attorney General or of the State Ethics Commission acting in furtherance of their official duties.



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ACCESS BY DATA SUBJECTS105.010: Public Inquiry:

Where an individual has reason to believe that personal data relating to him is held, but where the specific agency which holds such data is unknown to him, the individual may request, in writing, that the Secretary of Human Services or his designee locate all personal data held in personal data systems by all agencies under the Secretary of Human Services. Said Secretary or his designee shall make a reasonable effort to locate all such personal data. Said Secretary shall respond to such request within twenty (20) days.

105.020: Request of Individual for Notification of Holding

The department shall inform any individual in writing, within twenty (20) days of receipt of a request, whether it maintains in a personal data system any personal data concerning such individual.

105.030: Right of Data Subject to Access

Unless access by a data subject is prohibited by statute, the department shall, as promptly as possible, but in any event within twenty (20) days of receipt of a request, grant access to any data subject to any personal data concerning him which it holds in a personal data system. In addition, such data subject shall have the right to inspect and to copy any personal data to which he has access, subject to any rules established under section 100.060.

If a data subject is otherwise entitled to access to personal data pursuant to these regulations, the department shall not deny such data subject access to such data solely because such data are not public records as defined in section 101.090.

105.040: Release of Personal Data Pursuant to Request of Data Subject

As promptly as possible, but in any event within twenty (20) days of receipt of a request, the department shall, if practicable, release personal data to a third party designated by a data subject, subject to any rules established under section 100.060.

105.050: Removal of Third Party Identifiers From Data Released to Data Subjects

The department shall remove from any personal data to which access is granted pursuant to section 105.030 or which is released by the department pursuant to section 105.040, any personal identifiers relating to a third person, except where such third person is an officer or employee of government acting as such and the data subject is not.





105.060: Withholding Information Which is Under Investigation

The department may deny access to a data subject to personal data which is at the time of the request for access the subject of an investigation if such access would probably so prejudice the possibility of effective law enforcement that such access would not be in the public interest; provided, that such denial of access shall not in any way affect a data subject's rights under administrative or judicial discovery procedures. Such access may be denied until such investigation has been completed and any resultant administrative or judicial proceeding commenced or one year from the commencement of such investigation, whichever is sooner.

105.070: Notification of Denial of Access to Data

The department shall, within twenty (20) days of receipt of a request, notify in writing any individual, in terms comprehensible to him, of its denial of his request for access, the reasons therefore, and the rights of appeal set forth in Chapter 107.

105.080: Rights of Minors

Unless otherwise provided by law, rights and powers granted to a data subject under these regulations shall apply:

- (A) exclusively to a data subject if he has attained the age of 18;
- (B) to both the data subject and his parents, parent or guardians or either one acting alone, if the data subject has attained the age of 14 but not the age of 18; and
- (C) exclusively to the data subject's parents, parent or guardian if the data subject has not yet attained the age of 14;

provided, however, that in any situation where in the reasonable judgment of the department the interests of a parent or guardian are substantially adverse to those of a child about whom personal data are held, the department may deny exercise of any right or power to such parent or guardian and effectuate alternative means for safeguarding the exercise of such right and power for, or on behalf of, such child.

Any parent or guardian denied pursuant to this section the exercise of any right or power may appeal such denial under Chapter 107 of these regulations.



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A data subject who objects to the collection, maintenance, dissemination, use, accuracy, completeness or type of personal data held regarding him, may file an objection with the officer in charge of the personal data system complained against pursuant to section 102.010. Should said officer be unavailable, the data subject may make his objections to the Commissioner of Public Welfare.

106.020: Duties of Responsible Officer Pursuant to Objection

The officer responsible for a data system shall, within thirty (30) days of the receipt of an objection:

- (A) investigate the validity of the objection;
- (B) if, after the investigation --
  - (1) the objection is found to be meritorious, correct the contents of the data or the methods for holding or the use of such data;  
or
  - (2) the objection is found to lack merit, provide the data subject the opportunity to have a statement reflecting his views recorded and disseminated with the data in question; and
- (C) notify the data subject in writing of his decision and send a copy of such decision to the Commissioner or his designee.



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Any data subject who wishes to challenge either the department denial, pursuant to section 105.070, of his request for access or the decision of the officer in charge of a personal data system pursuant to section 106.020 may appeal such denial or decision to the Commissioner of Public Welfare. Such appeal shall be filed in writing within thirty (30) days of the data subject's receipt of notification of the agency denial or the decision of the officer.

107.020: Appeal to the Commissioner or His Designee

The Commissioner or his designee hearing an appeal filed pursuant to section 107.010 shall, at the request of the appellant data subject, convene an adjudicatory hearing, pursuant to Chapter 30A of the General Laws, within thirty (30) days of the filing of such appeal, and shall render a decision on the merits within thirty (30) days of the conclusion of such hearing. Within seven (7) days of rendering his decision, the Commissioner or his designee shall send written notification to the appellant data subject and to the appellee responsible officer regarding the nature of the decision and the reasons therefor. If such decision is adverse to the data subject, such notification shall include notice, in terms comprehensible to the data subject, of the right of the data subject to further review pursuant to section 107.030.

107.030: Appeal to Executive Office of Human Services

(A) Any data subject who wishes to challenge the decision of the Commissioner rendered pursuant to section 107.020, may appeal such decision to the Secretary of Human Services or his designee. Such appeal shall be filed in writing within thirty (30) days of the data subject's receipt of notification of the decision of the Commissioner.

(B) In hearing an appeal under this section, the Secretary or his designee shall limit his review to an interpretation of the relevant statutes and regulations and their application to the facts in each case being appealed. The Secretary or his designee shall not review, in any way, the decision of the Commissioner with regard to the factual issues in each case. The Secretary or his designee may, at his discretion, conduct a hearing, on terms and in a format which he deems appropriate, for the purpose of receiving arguments on issues which he deems pertinent to his review. The Secretary or his designee shall convene such hearing, if at all, within thirty (30) days of the filing of the appeal.

(C) The Secretary or his designee shall render a decision within thirty



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(30) days of the filing of the appeal or within thirty (30) days of the conclusion of the hearing, if any, whichever is later. The Secretary or his designee shall send written notification to the appellant data subject and to the Commissioner of his decision and the reasons therefor.

(D) A decision rendered pursuant to section 107.030(C) shall be the final and conclusive administrative determination of the issues in controversy in each case.

107.040: Failure To Render A Decision

Any failure to render a decision at any stage of the appeal process within the time periods set out in this Chapter shall result in a decision favorable to the appellant data subject, except that the time periods may be extended by agreement between the data subject and the department.

107.050: Judicial Relief

The procedure established by section 107.030 shall constitute an additional remedy which may be employed or abandoned at any time in favor of the judicial remedy provided by G.L.c. 214, § 3B, the department shall not interpose any defense of failure to exhaust administrative remedies in case of any civil action pursuant to said § 3B for failure to use the section 107.030 procedure.



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(A) Any employee of the department found breaching the confidentiality of data subjects through violation of these regulations shall be subject to reprimand, suspension, dismissal, or other disciplinary actions by the department consistent with the rules and regulations of the Commonwealth governing its employees, and may be denied future contact with personal data and removed from holding responsibility.

(B) Any agency which violates the terms of these regulations may be liable to individuals injured, pursuant to G.L. c. 214, § 3B, as added by St. 1975, c. 776 § 3, and the legal action to enjoin such violations brought by the Attorney General.

(C) Any entity other than an agency which violates a contract with an agency is subject to the penalty provisions of the contract and may forfeit the rights in contract with that of any other agency. If an action is brought against an agency under G.L. c. 214, § 3B, for any violation for which any entity other than the defendant agency may be liable, said entity may be impleaded as a third-part defendant. Any entity other than an agency which violates any provision of these regulations shall be subject to a review and an investigation by the appropriate contracting agency, which may lead to suspension of any contractual relationship and to legal sanctions brought by the Attorney General.

108.020: Monitoring and Enforcement

(A) The Commissioner of Public Welfare or his designees, shall be responsible for the monitoring of compliance with these regulations in cooperation with the Department of the Attorney General pursuant to G.L. c. 214, § 3B, as added by St. 1975, c. 776, § 3.

(B) The Commissioner of Administration or his designee pursuant to G.L. c. 66A § 3, as added by St. 1975, c. 776, § 1, is responsible for approving these regulations.







